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571, 42 Pac. 225. See 2 COOK, CORPORATIONS, 7 ed., § 610. And in New York this right is granted by statute. N. Y. CONSOL. LAWS, 1991. Hence, if the court has power to invalidate the election in the principal case, it is not because of anything improper in the mere casting of the votes by proxy. But, if for any reason the shareholders have not had a fair opportunity to vote in a regularly conducted meeting, the election may be set aside. *In Re Argus Printing Co.*, 1 N. D. 434, 48 N. W. 347; *In Re Townsend*, 24 Misc. 80, 53 N. Y. Supp. 289. Similarly, where, as in the principal case, there is a fraud and surprise on the majority shareholders, another election may be ordered. *People v. Albany, etc. R. Co.*, 55 Barb. (N. Y.) 344. In the absence of statute, *quo warranto* is the proper proceeding to try title to a corporate office; and in the ordinary case equity will not interfere. See *People v. Albany, etc. R.*, *supra*; *Mozley v. Alston*, 16 L. J. Eq. (n. s.) 217. But, if the election is fraudulently conducted, equity will sometimes take jurisdiction to prevent irreparable injury. *Johnston v. Jones*, 23 N. J. Eq. 216. But see *Hartt v. Harvey*, 32 Barb. (N. Y.) 55. However, the remedy in this type of cases is largely statutory. See 2 COOK, CORPORATIONS, 7 ed., § 619. The New York statute is fairly typical. It provides that the Supreme Court shall exercise general supervision over corporate elections and afford any relief the occasion demands. N. Y. CONSOL. LAWS, 1994.

EMINENT DOMAIN — WHEN PROPERTY IS TAKEN — DAMAGE TO LAND ON STREAMS TRIBUTARY TO STREAMS IMPROVED. — The government erected a lock and dam in the Cumberland River, which caused the plaintiff's land, which is situated on an unnavigable tributary of the Cumberland River, to be frequently overflowed. *Held*, that the plaintiff is entitled to compensation. *United States v. Cress*, U. S. Sup. Ct., Oct. Term, 1916, No. 84.

In another case, the facts were similar to those in *United States v. Cress*, except that instead of flooding the plaintiff's land, the water was backed up upon a mill dam, so that there was not enough fall to turn the mill wheel. *Held*, that the plaintiff is entitled to compensation. *United States v. Kelly*, U. S. Sup. Ct., Oct. Term, 1916, No. 718.

The federal government has power to control navigable streams so far as may be necessary in regulating commerce among the states and with foreign nations. CONSTITUTION, Art. I, § 8. See *Scott v. Lattig*, 227 U. S. 229, 243; *Gibson v. United States*, 166 U. S. 269, 272. But this power is limited by the Fifth Amendment which prohibits the taking of private property for public use without just compensation. See *Monongahela Navigation Co. v. United States*, 148 U. S. 312, 336. For a taking there must be an appropriation of an interest in the land itself as contrasted with mere consequential damage such as an interference with access to a stream. *Gibson v. United States*, *supra*; *Scranton v. Wheeler*, 179 U. S. 141. See 14 HARV. L. REV. 451. If the land is permanently flooded, it is a taking of the fee simple. *Pumpelly v. Green Bay Co.*, 13 Wall. (U. S.) 166; *United States v. Lynah*, 188 U. S. 445. See LEWIS, EMINENT DOMAIN, 3 ed., § 80. If the flooding is only occasional, a lesser interest analogous to an easement is taken. *McKenzie v. Mississippi, etc. Boom Co.*, 29 Minn. 288. It is also a taking when the improvements interfere with the use of a mill. *Gibson v. Fischer*, 68 Iowa, 29, 25 N. W. 914; *Barclay R. & Coal Co. v. Ingham*, 36 Pa. St. 194. It would seem that the rights of riparian owners along unnavigable tributaries are as great as the rights of owners of land along the stream improved.

EVIDENCE — DOCUMENTS — CARBON COPIES AS DUPLICATE ORIGINALS. — Plaintiff offered in evidence a carbon copy of a typewritten letter which he had sent to the defendant. No notice to produce the original had been given. *Held*, that the carbon copy is admissible. *Edmunds v. Atchison, etc. Ry. Co.*, 162 Pac. 1038 (Cal.).